

# **EXHIBIT 4**

**From:** [Champion, Anne](#)  
**To:** [Barry S. Zone](#)  
**Cc:** [McCaffrey, Cate](#); [Coates, Eleanor R.](#); [Crain, Lee R.](#)  
**Subject:** Re: 9/22 Azari Deposition  
**Date:** Thursday, September 22, 2022 8:04:16 AM

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Dear Mr. Zone: our team is presumably already on their way to the prison. You could have opposed the 1782 application or moved to quash the subpoena. You did not. In any event, your position lacks legal merit. The deposition is court-ordered and we will make our record and seek fees. Or you could show up and defend your client.

Best regards,

Anne Champion

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On Sep 21, 2022, at 11:28 PM, Barry S. Zone <bzone@mosessinger.com> wrote:

**[WARNING: External Email]**

I have told you from our first conversation that Mr. Azari would be invoking his fifth amendment privilege against self incrimination and would not testify.

As his criminal attorney, it is my professional opinion that his testimony will subject him to further criminal exposure, not only as to his instant case, but potentially as to the other matters you have indicated you will be questioning him about.

I have never wavered about this. I cannot appear tomorrow and he will not testify tomorrow. If the Court intends to deprive Mr. Azari of his constitutional rights, we can address it at that time. I strongly believe however that will not be the case.

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On Sep 21, 2022, at 10:39 PM, Crain, Lee R. <[LCrain@gibsondunn.com](mailto:LCrain@gibsondunn.com)> wrote:

Mr. Zone – thank you for your response. We used the email address we have corresponded with you before and from which you have responded to our prior emails. If there is a better one, please provide it.

As you know, this deposition was noticed three weeks ago, and we have been working with the jail to procure these arrangements. We have told you several times we intend to proceed, and the jail is making him available. You cannot unilaterally cancel a duly noticed deposition. It would be unduly burdensome on us and on the jail. We will be present at the noticed time tomorrow. If you decide not to attend, we reserve all rights including the right to seek costs and fees for the court reporting and interpretation services that we have procured already for the deposition. To be clear, we will not question your client if you do not attend, but we will reserve rights to address your failure to attend with the Court, particularly given the substantial efforts we've had to make with the jail to accommodate this deposition.

As to the Fifth Amendment privilege, there are numerous questions Mr. Azari can answer that do not implicate his Fifth Amendment privilege. You yourself even note that his privilege as to our informal interrogatories—which we provided to you in good faith and in the hopes of amicably resolving any issues here—“depend[s] on his answers.” But even if he invokes as to every question (which would be inappropriate in any event), we are entitled to make our record.

We hope you will attend the deposition tomorrow and will not obstruct these proceedings. But if not, we reserve all rights to take this issue up with the Court.

**Lee Crain**

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**From:** Barry S. Zone <[bzone@MOESSINGER.COM](mailto:bzone@MOESSINGER.COM)>

**Sent:** Wednesday, September 21, 2022 10:11 PM

**To:** McCaffrey, Cate <CMcCaffrey@gibsondunn.com>

**Cc:** Coates, Eleanor R. <ECoates@gibsondunn.com>; Crain, Lee R. <LCrain@gibsondunn.com>; Champion, Anne <AChampion@gibsondunn.com>

**Subject:** Re: 9/22 Azari Deposition

**[WARNING: External Email]**

Just saw this since it was sent to my personal email.

This is to advise you that I am counsel to Aviram Azari, and notwithstanding you're view that he does not have a 5th amendment privilege, I am certain that he does and he invokes it, and will not answer questions with respect to the topics you have identified that you intend to question him about.

The topics are clear from the proposed interrogatories and depending on his answers to the questions, he very clearly poses a reasonable fear of criminal prosecution in criminal matters related to and unrelated to the federal case he is currently being prosecuted for. As well as for the unrelated criminal conduct you have detailed in your interrogatories.

So you are aware, and today I advised you, that I tried to meet with Mr. Azari to discuss your questions, however when I arrived at the Jail, I was told he had been hospitalized and would not be able to meet with me. To be clear, I am not available tomorrow, Mr. Azari is invoking his 5th amendment privilege, and I am instructing you not question Mr. Azari, based on the above.

Should you have questions you are free to contact me.

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On Sep 21, 2022, at 1:57 PM, McCaffrey, Cate  
<[CMcCaffrey@gibsondunn.com](mailto:CMcCaffrey@gibsondunn.com)> wrote:

Mr. Zone,

We understand from the BOP that, while Mr. Azari was briefly hospitalized earlier today, he has returned to MDC and is medically fit to attend the deposition we have scheduled for tomorrow, September 22, 2022 at 9:30 am EST. Accordingly, we intend to go forward with the deposition as scheduled.

We understand that it is your position that Mr. Azari will not answer any of the questions we ask in the deposition. *That* position has no legal basis. A witness may only invoke the Fifth Amendment during a deposition when a question is connected to a “reasonable fear of prosecution.” *Hoffman v. United States*, 341 U.S. 479, 486 (1951). However, “questions that have no connection to a reasonable fear of prosecution — for example, ‘innocuous questions’ such as whether a witness owns or rents his home — must be answered.” *Huber v. Ark Credit Co., LLC*, 2016 WL 482955 (S.D.N.Y. Feb. 5, 2016) (citing *OSRecovery Inc. v. One Groupe Intern., Inc.*, 262 F. Supp. 2d 302, 307 (S.D.N.Y. 2003)). Moreover, a witness may not invoke the Fifth Amendment on the basis of a speculative or hypothetical fear of persecution. *See US v. Badoolah*, 2021 WL 3675147, at \*7 (E.D.N.Y. Aug. 19, 2021). Here, there are many questions Mr. Azari can answer that are not connected to a “reasonable fear of prosecution” and thus do not implicate his Fifth Amendment rights. That you agreed to seek Mr. Azari’s response on the informal interrogatories we prepared—which cover much of the same substance as the deposition will—is evidence of this fact. In the event Mr. Azari does obstruct the deposition by refusing to answer questions that do not implicate his Fifth Amendment rights, we reserve all rights.

We appreciate your time and cooperation. We look forward to seeing you tomorrow.

**Cate McCaffrey** (*she/her/hers*)

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**From:** Coates, Eleanor R. <[ECoates@gibsondunn.com](mailto:ECoates@gibsondunn.com)>  
**Sent:** Friday, September 16, 2022 3:52 PM  
**To:** Barry Zone <[barryzone@icloud.com](mailto:barryzone@icloud.com)>  
**Cc:** McCaffrey, Cate <[CMcCaffrey@gibsondunn.com](mailto:CMcCaffrey@gibsondunn.com)>; Crain, Lee R. <[LCrain@gibsondunn.com](mailto:LCrain@gibsondunn.com)>  
**Subject:** 9/22 Azari Deposition

Hi Barry,

It's nice to meet you. I am working with Lee Crain and Cate McCaffery as counsel to Scott Stedman and Forensic News in *In re Application of Forensic News LLC and Scott Stedman*. I just wanted to check in with you that we are confirmed for the deposition with Mr. Azari at 9:30 AM on September 22, 2022. We are working with MDC to finalize the logistics for the visit but wondered if you might be able to help with a couple things—we understood it is possible to arrange for inmates to have their shackles removed and be provided with food during the visit, and we thought you might be in the best position to request those things on behalf of your client.

Please let us know if there is anything else we can help with. Thank you very much.

Best,  
Eleanor

**Eleanor R. Coates\***  
*\*Recent law graduate, not licensed to practice law*

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